

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ANTONIO GALLEGOS, and
KRISTIAN PETTINE,**

Plaintiffs,

v.

No. 12-CV-224 JAP/KBM

CITY OF ESPANOLA, a municipal corporation;
JOE MARTINEZ, individually and in his official
capacity; **JEREMY APODACA**, individually and in
his official capacity; **ROBERT VIGIL**, individually
and in his official capacity; **CITY OF ESPANOLA
OFFICERS and SUPERVISORS JOHN DOES 1**
through 10, individually and in their official
capacities,

Defendants.

ORDER

On the eve of a final pretrial conference in this case, Nathaniel Thompkins filed a sealed MOTION TO WITHDRAW (Doc. No. 195). At the pretrial conference on December 10, 2014, the Court heard argument on the motion to withdraw from Mr. Thompkins and counsel for Defendants (who at that time opposed the motion). Neither Plaintiff was present at the hearing—Ms. Pettine for unknown reasons, Mr. Gallegos because he is currently incarcerated. The Court denied Mr. Thompkins' motion without prejudice for failing to comply with D.N.M.LR-Civ. 83.8. *See* ORDER DENYING MOTION TO WITHDRAW AS ATTORNEY; AND VACATING JURY SELECTION AND TRIAL (Doc. No. 199).

Mr. Thompkins filed a FIRST MOTION TO WITHDRAW AS ATTORNEY AMENDED (Doc. No. 200) (Motion to Withdraw) on December 10, 2014. He served the Motion to Withdraw on Plaintiffs. *See* Doc. Nos. 203–205. Plaintiffs filed a MOTION FOR EXTENSION OF TIME TO FILE RESPONSE AS TO FIRST MOTION TO WITHDRAW AS

ATTORNEY AMENDED (Doc. No. 206) (Motion for Extension); a NOTICE OF CHANGE OF ADDRESS (Doc. No. 209), and a RESPONSE IN OPPOSITION (Doc. No. 210). Mr.

Thompkins filed a REPLY TO RESPONSE (Doc. No. 211). Meanwhile, Defendants filed a RESPONSE IN OPPOSITION (Doc. No. 202) on December 17, 2014. Mr. Thompkins filed a REPLY (Doc. No. 207) to Defendants' response on January 2, 2015.

On January 27, 2015, the Court granted the Plaintiffs' motion for an extension of time to file a response to the motion to withdraw and struck the response in opposition because it was filed by Antonio Gallegos's father, who is not a licensed attorney. *See* ORDER, Doc. No. 216. On February 4, 2015, Kristian Pettine and Antonio Gallegos filed separate responses opposing the motion to withdraw. *See* Doc. Nos. 218, 219. On February 5, 2015, Nathaniel Thompkins filed a REPLY (Doc. No. 220).

On February 17, 2015, the Court held a lengthy hearing on Mr. Thompkins' Motion to Withdraw. Defendants had by then withdrawn their opposition to the Motion to Withdraw. Plaintiff Pettine was present for the hearing, but Plaintiff Gallegos was not. Plaintiff Gallegos instead submitted a handwritten letter to the Court asserting, *inter alia*, that he no longer held any confidence in Mr. Thompkins' ability to competently represent his and his co-Plaintiff's interests. The letter also demanded that Mr. Thompkins return some \$40,000 Plaintiffs had allegedly given him.

The Court explained to Ms. Pettine that it would not order Mr. Thompkins to return any monies he allegedly owed Plaintiffs, and that the only subject of the day's hearing was whether or not Mr. Thompkins' Motion to Withdraw should be granted. After being satisfied that Ms. Pettine and her co-Plaintiff no longer had any desire to be represented in this case by Mr. Thompkins, the Court concluded that the Motion to Withdraw should be granted as unopposed.

Defendants asked this Court for leave to file a new motion for summary judgment based on qualified immunity. The Court indicated that it would grant leave to file that motion, and it explained to Plaintiff Pettine that it highly recommended that she and her co-Plaintiff obtain replacement counsel rather than proceed in this case *pro se*.

IT IS ORDERED THAT:

- (1) Mr. Thompkins' Motion to Withdraw is GRANTED;
- (2) Trial is set for July 20, 2015, at 9:00 AM, at 421 Gold SW, Albuquerque, NM, in the Sixth Floor Courtroom;
- (3) A final pretrial conference will be held on June 29, 2015, at 1:30 PM, at 421 Gold SW, Albuquerque, NM, in the Sixth Floor Courtroom; and
- (4) Defendants may file a new motion for summary judgment based on qualified immunity by March 30, 2015.

A handwritten signature in black ink, reading "James A. Parker". The signature is written in a cursive, flowing style. The first name "James" is written in a large, looped script, followed by a smaller "A.", and then "Parker" in a similar cursive style.

SENIOR UNITED STATES DISTRICT JUDGE